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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,129	04/01/2004	Andre R. Vinclette	86200-13	8097
28291	7590	07/11/2006	EXAMINER	
FETHERSTONHAUGH - SMART & BIGGAR			STAHL, MICHAEL J	
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SUITE 3300			ART UNIT	PAPER NUMBER
MONTREAL, QC H3B 4W5			2874	
CANADA			DATE MAILED: 07/11/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/814,129	VINCELETTE, ANDRE R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mike Stahl	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 April 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) Claim(s) 19-23 and 26-34 is/are allowed.
- 6) Claim(s) 12 and 13 is/are rejected.
- 7) Claim(s) 14-18,24 and 25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/3/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

***Election***

Applicant's election without traverse of group II (claims 12-34) in the reply filed on April 24, 2006 is acknowledged. Claims 1-11 are withdrawn from further consideration.

***Claim Objections***

Claim 24 is objected to because it appears that "stabilizing" should be changed to "exposing". It is noted that "stabilizing" in parent claim 19 refers to the connection between the thermally compensating link and the optical component. However, annealing of the *grating* is done by exposure to radiation as indicated in the description at e.g. p. 12 first full paragraph, or p. 14 second full paragraph. Alternatively, the phrase "wherein said stabilizing includes" could be replaced with just "including".

Claim 25 is objected to because it appears to be missing a word after "including". It is believed that "depositing" should be inserted after "including", and that "from" should be changed to "on". Note p. 15, first paragraph, fourth sentence. However, applicant should verify whether this was the intended scope of the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 12 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Dariotis et al. (US 6377727, cited in information disclosure statement).

Claim 12: Dariotis discloses a package for holding a temperature sensitive optical device, comprising: a substrate 302 receiving the optical device 310; a thermally compensating component 304 mounted to the optical device and the substrate; the substrate having a window to allow the optical device to be exposed to light to change the optical properties of the optical device (figs. 3-4; col. 4 lns. 61-66).

Claim 13: The thermally compensating component 304 imposes a temperature-dependent strain variation to the optical device (abstract).

#### *Allowable Subject Matter*

Claims 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 19-23 and 26-34 are allowed. Claims 24-25 will be allowable if the above objections are overcome.

Claim 14 recites including a shield to reduce exposure of the thermally compensating component to light directed at the optical device. The examiner is interpreting the shield as being an element distinct from the recited substrate. None of the cited prior art teaches or suggests such a shield in combination with all the other limitations of parent claims 12-13. There appears to be no recognition in the cited references that radiation used to modify the optical properties of an optical device should be blocked from reaching a temperature compensation component. Claims 15-18 depend from claim 14.

Claim 19 requires that the exposure of the optical component to radiation to modify an optical property thereof occurs subsequent to stabilizing the connection between the optical component and a thermally compensating link. The cited prior art references do not disclose or suggest this step in combination with all the other steps set forth in claim 19. Claims 20-28 depend from claim 19.

Claims 29 and 32 respectively require shielding the thermally compensating component from optical radiation scattered by the optical component during exposing, or locating the thermally compensating component such that radiation scattered by the optical component does not cause the thermally compensating component to exert a strain on the optical component. The cited prior art references fail to teach or suggest this feature in combination with all the other limitations of claims 29 and 32. Claims 30-31 and 33-34 depend from claims 29 and 32 respectively. Although the substrate surrounding the aperture in Dariotis might be expected to block the initially incident radiation from reaching the thermally compensating component, it is not clear that it could block radiation *scattered from the optical component*.

### ***Conclusion***

US 2003/0039448 is listed on the attached PTO-892 form for its disclosure of an optical device package including windows for post-tuning.

Inquiries about this letter should be directed to Mike Stahl at 571-272-2360. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at 571-272-1626. Official correspondence which is eligible

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for submission by facsimile and which pertains to this application may be faxed to 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions about the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Stahl MJS  
Patent Examiner  
Art Unit 2874

July 7, 2006



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